## UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

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Otis B. Hackett,		) C/A No. 4:09-3167-TLW-TER
	Plaintiff,	)
vs.		) ORDER
Jimmy Brown; Tony Davis;		) ) )
Capt. Middleton; Major Anderson,		)
	Defendants.	)

This is a civil action filed by a prisoner confined at a local detention center. Therefore, in the event that a limitations issue arises, the plaintiff shall have the benefit of the holding in *Houston* v. Lack, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court).

This matter is before the court because of the plaintiff's failure to comply with the magistrate judge's order (Entry No. 7) of December 17, 2009. A review of the record indicates that the magistrate judge on December 17, 2009, ordered the plaintiff to submit the items needed to render this case into "proper form" within twenty-one (21) days, and that if he failed to do so, this case would be dismissed without prejudice. The items needed to bring this case into "proper form" were separate Forms USM-285 for each defendant sued, page 1 of the complaint (which was missing from the original complaint), and Answers to Special Interrogatories. The Special Interrogatories to be

answered by the plaintiff concerned the plaintiff's pending grievance and the disposition thereof (if any). On December 17, 2009, the Office of the Clerk of Court mailed to the plaintiff, at the address listed in the complaint, a copy of the order of December 17, 2009, and the aforementioned "proper form" documents.

On January 8, 2010, the envelope containing the order of December 17, 2009, were returned to the Clerk's Office as undeliverable (Entry No. 10). On January 11, 2010, the Clerk of Court remailed the order of December 17, 2009, and the "proper form" documents to the plaintiff's address in Hodges (Greenwood County) South Carolina, and reset the deadline for the plaintiff to bring this case into "proper form." The plaintiff has not responded to the re-mailed order.

Accordingly, the above-captioned case is dismissed without prejudice. The Clerk of Court shall close the file.\*

IT IS SO ORDERED.

February **23**, 2010 Florence, South Carolina

Terry L. Wooten

United States District Judge

<sup>\*</sup>Under the General Order (Misc. No. 3:07-MC-5014-JFA) filed on September 18, 2007, this dismissal without prejudice does not count as a "strike" for purposes of the "three strikes" provision of 28 U.S.C. § 1915(g). If the plaintiff wishes to bring this action in the future, he should obtain new civil rights forms for doing so from the Clerk's Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).